

REMARKS

35 USC 112

Claims 39-42 are rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement.

Claims 40 and 41 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Applicant respectfully disagrees with both rejections. Claims 39-40 are herein canceled. Claim 41 is amended to depend from claim 36.

35 USC §103

Claims 18-21, 24-27, 30-36, 39-49 and 51-56 are rejected under 35 USC 103(a) as obvious over SU 1364051 in view of Drage (US 5858547) and Arial et al. (US 2003/0165774).

Claims 18-22, 24-27, 30-36, 39-49 and 51-55 are rejected under 35 USC 103(a) as obvious over SU 1364051 in view of Drage (US 5858547) and Arial et al. (US 2003/0165774) and further in view of Rahman et al (US 5928836).

Claims 18-21, 24-27, 30-36, 39-49 and 51-56 are rejected under 35 USC 103(a) as obvious over SU 1364051 in view of Drage (US 5858547) and Arial et al. (US 2003/0165774) and further in view of McCutcheon et al (US 2007/0105384) or Patil et al (US 2003/0207209).

The Applicant respectfully disagrees with all of these rejections. The independent claims are amended to replace the phrase "consisting essentially of" with "consisting of". MPEP Section 2111.03 states:

"The transitional phrase "consisting of" excludes any element, step, or ingredient not specified in the claim. *In re Gray*, 53 F.2d 520, 11 USPQ 255 (CCPA 1931); *Ex parte Davis*, 80 USPQ 448, 450 (Bd. App. 1948) ("consisting of" defined as "closing the claim to the inclusion of materials other than those recited except for impurities ordinarily associated therewith.")"

Claim 18 recites: " A planarization composition, consisting of: an o-cresol-based polymer compound and a resol phenolic resin; at least one surfactant; and a solvent system comprising at least one alcohol and at least one ether acetate-based solvent."

Claim 36 contains similar provisions as the ones in Claim 18.

The primary reference in these rejections is the SU 1364051. These components in SU consist of quinone-based compounds, which function as absorbing compounds in the photoresist materials. The contemplated compositions of the present application do not contain quinones, and therefore, the claims have been amended to reflect that. The SU reference does not disclose compounds without quinones, and the remaining references are no longer relevant, and therefore, the current claims are allowable over the above-mentioned references.

The current amendments are made in this case to expedite prosecution of this application and should not be considered an admission by the applicant that other claims cannot be considered novel and non-obvious over this art. The Applicants plan to file a divisional application and potentially a continuation application in order to address other patentable embodiments; however, in order to focus this matter and move this case to allowance, the claims are amended to include "consisting of" language. The Applicant does not need to speculate on the inclusion of other components, such as quinone-based compounds, especially since they are outside the scope of the claims and they are absorbing materials, which is again, outside the scope of this application.

CONCLUSION

The undersigned Attorney-of-Record respectfully requests an interview to resolve any remaining issues the Examiner has after review of this response, in order to avoid additional and lengthy written prosecution. Dr. Thompson is available during the week from 8AM to 4PM PST and can be reached at 949-224-6282.

REQUEST FOR ALLOWANCE

Claims 18-22, 24-27, 30-36, 41-49 and 51-56 are pending in this application, and the Applicant respectfully requests that the Examiner reconsider the claims in light of the arguments presented and allow all pending claims.

Respectfully submitted,

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